

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
HUNTINGTON DIVISION**

**WEST VIRGINIA HIGHLANDS  
CONSERVANCY, APPALACHIAN  
VOICES, and SIERRA CLUB,**

**Plaintiffs,**

**v.**

**Civil Action No. 3:19-cv-00573**

**LEXINGTON COAL COMPANY, LLC,**

**Defendant.**

**UNOPPOSED MOTION TO EXTEND TIME TO FILE REPLY IN SUPPORT OF  
OCTOBER 4, 2023 CONTEMPT MOTION**

Pursuant to Federal Rule of Civil Procedure 6(b)(1)(A) and Local Rule 7.1(a)(7), Plaintiffs respectfully request that the Court enter an order extending until **October 27, 2023**, the time for the filing a reply in support of the pending Motion to Show Cause Why Defendant Should Not Be Held in Further Civil Contempt of This Court's December 13, 2021 Order (CM/ECF #126). Counsel for Defendant has authorized counsel for Plaintiffs to represent that Defendant consents to the requested extension. In support of this motion, Plaintiffs assert the following:

1. On October 4, 2023, Plaintiffs filed a Motion to Show Cause Why Defendant Should Not Be Held in Further Civil Contempt of This Court's December 13, 2021 Order (CM/ECF #126) and a memorandum in support thereof (CM/ECF #127).
2. On October 17, 2023, Defendant filed its response in opposition to that motion, asserting defenses to contempt. CM/ECF #128.

3. On October 19, 2023, Special Master James Kyles sent an email to the Parties and to the Court. Exhibit A. In his email, Special Master Kyles posed three questions to Defendant based on his review of Defendant's response to the pending contempt motion and the exhibits thereto. *Id.* Special Master Kyles requested a response to his questions from Defendant by October 25, 2023. *Id.*

4. Under Local Rule 7.1(a)(7), the deadline for any reply memorandum by Plaintiffs in support of the pending contempt motion would be October 24, 2023—one day before the date by which Special Master Kyles has requested a response from Defendant to his questions about their response memorandum and exhibits thereto.

5. Defendant's anticipated October 25, 2023 response to Special Master Kyles's queries will essentially be a supplement to its response memorandum and its defenses to contempt.

6. Without an extension, Plaintiffs would be required to file a reply to Defendant's asserted defenses on October 24, 2023, without having the benefit of reviewing Defendant's anticipated October 25, 2023 response to the Special Master's inquiries.

7. Because Plaintiffs' reply memorandum would be due *before* Defendant's supplementation of its contempt defenses, good cause exists to extend the deadline for Plaintiff's reply memorandum to October 27, 2023. Such an extension would allow Plaintiffs time to review Defendant's anticipated October 25, 2023 response to the Special Master's inquiries and incorporate a reply to that response in their anticipated reply brief. And the short extension would not prejudice any Party.

WHEREFORE, Plaintiffs respectfully request that the Court enter the attached proposed order extending the deadline for the filing of any reply memorandum in support of the pending contempt motion to **October 27, 2023**.

DATED: OCTOBER 20, 2023

Respectfully submitted,

/s/ Derek O. Teaney

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**WEST VIRGINIA HIGHLANDS  
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**Plaintiffs,**

**v.**

**CIVIL ACTION NO. 3:19-CV-573**

**LEXINGTON COAL COMPANY, LLC,**

**Defendant.**

**CERTIFICATE OF SERVICE**

I, Derek O. Teaney, hereby certify that, on October 20, 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to each of the following CM/ECF participants:

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**/s/ Derek O. Teaney**  
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